

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**HOMEWOOD COMPANY, L.L.C.;  
LODES, INC.; and CARY S. and  
DOROTHY B. BIERDEMAN  
REVOCABLE TRUST**

**PLAINTIFFS**

**v.**

**CASE NO. 3:14-cv-00907-HTW-LRA**

**CITY OF PEARL, MISSISSIPPI, and  
BRAD ROGERS, MAYOR**

**DEFENDANTS**

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**RESPONSE IN OPPOSITION TO MOTION  
TO DISMISS OF BRAD ROGERS**

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COME NOW Homewood Company, L.L.C.; Lodes, Inc.; and Cary S. And Dorothy B. Bierdeman Revocable Trust ("Plaintiffs") and respond to and oppose the Motion to Dismiss of Brad Rogers, Mayor of the City of Pearl, Mississippi, and would show unto the Court that Mayor Rogers does not exercise legislative functions and is not entitled to his claimed immunity for legislative acts; that the Mayor does have "superintending control" of the actions of City employees and is responsible for the refusal of the City of Pearl and its employees to allow Plaintiffs to replace manufactured homes in their respective manufactured home parks; that the Plaintiffs have a clearly established constitutional due process to nonconforming status; that the Second Amended Complaint complies with Fed. R. Civ. P. 8 and pleads fact-based allegations within the meaning of *Ashcraft v. Iqbal*, 556 U. S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U. S. 544 (2007); and, finally,

the claims advanced in the Second Amended Complaint are not exempted under the Mississippi Tort Claims Act, nor in any way prohibited by same.

Plaintiffs are filing separately a Memorandum in Support of this Response in Opposition to the Motion to Dismiss of Brad Rogers.

DATED: November 2, 2015

Respectfully submitted,

HOMEWOOD COMPANY, L.L.C.  
LODES, INC.; and CARY S. and  
DOROTHY B. BIERDEMAN  
REVOCABLE TRUST  
By and through their attorneys

s/ John G. Corlew  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that I have caused to be served via the Court's ECF system on the following:

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DATED: November 2, 2015

*s/ John G. Corlew*  
JOHN G. CORLEW